



# Surviving Child's Benefits:

## WHO IS MISSING OUT?

Office of the Child and Youth Advocate

March 2019



CHILDREN  
& YOUTH  
NEWFOUNDLAND  
& LABRADOR



# Message from the Child and Youth Advocate



Losing a parent is one of the most difficult things that can ever happen in the life of a child. In addition to the emotional toll involved, the child also loses a valuable advocate, a protector, and a support for their current life and their future dreams and plans. Every possible benefit for which the child or children are entitled must be protected and secured to help provide a future of opportunity for them.

When I learned that Surviving Child's Benefits under the Canada Pension Plan were not reaching some children of deceased parents, I decided to further investigate. I sadly learned that in some cases, these funds are treated as revenue by the Government of Newfoundland and Labrador and never directly reach these children. And these children are some of our most vulnerable – children who are in care, children whose surviving parent receives Income Support, or youth requiring residential services under the Youth Services Program.

I believe this report lays out the case that changes are required. The amount of money in question is not significant to the Province, however calculated annually over the life of a child, it represents a significant investment in their future if it is held in trust. I hope this report stimulates a rational and meaningful discussion on the current practice, and results in a commitment to change that is in the best interests of these children.

A handwritten signature in black ink that reads 'Jacqueline Lake Kavanagh'.

**Jacqueline Lake Kavanagh**  
Child and Youth Advocate





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# Issue

Some children in Newfoundland and Labrador are missing out on the Surviving Child's Benefit from the Canada Pension Plan. Children of deceased parents who contributed to the Canada Pension Plan (CPP) and who meet eligibility criteria are entitled to a monthly Surviving Child's Benefit. This is also commonly known as the Orphan's Benefit. To receive the benefit, a child must be under 18 years of age, or between the ages of 18 and 25 and attending a school or university on a full-time basis. In 2018, the average rate paid to the surviving child was \$244.64 per month. The CPP is covered by contributions paid by employees, employers, and self-employed workers, and from revenue earned on CPP investments. The CPP is not funded through tax revenue.



In Newfoundland and Labrador, the Department of Advanced Education, Skills and Labour (AESL) administers the Income Support Program and it treats payments under CPP, including Surviving Child's Benefits, as non-exempt income. This means that when government determines the amount of money a family receives for basic living costs under its Income Support Program, it factors in the Surviving Child's Benefit as family income. The full amount is then deducted from the family's Income Support payment. Similarly, when the child is in care with the Department of Children, Seniors and Social Development under the **Children and Youth Care and Protection Act**, the Surviving Child's Benefit goes to government revenue and does not directly support the care of the child or youth. Youth Services allowances and kinship care funds are also reduced by the amount of any Surviving Child's Benefits.

This issue came to the attention of the Office of the Child and Youth Advocate after we released the report *Making Waves: Ensuring Children Benefit from Child Support Payments*. Family members of children of deceased CPP contributors contacted our office to share their frustrations and concerns that Surviving Child's Benefits did not reach the child beneficiary. This was identified as a concern for surviving children who are in care with the Department of Children, Seniors and Social Development (CSSD) as well as those who are dependents of Income Support recipients. We initiated a systemic review upon becoming aware of these practices and family concerns.



# Review Process

The Office of the Child and Youth Advocate conducted this systemic review with full cooperation of the Department of Advanced Education, Skills and Labour, as well as the Department of Children, Seniors and Social Development. Requests for information were met with timely responses and these provided greater understanding of the scope and reality of the issue. The review process included an analysis of current policies and practices, and a jurisdictional scan provided information as to how other provinces and territories treat the Surviving Child's Benefit.

## Scope of the Issue

To determine the scope of the issue, and the practical implications for children and families, the Office of the Child and Youth Advocate contacted the departments of AESL and CSSD requesting information on current policies and practices in relation to children and youth who are entitled to the Surviving Child's Benefit. The following information is useful in understanding this issue in Newfoundland and Labrador:



- ▶ The Surviving Child's Benefit is considered non-exempt income for the purpose of calculating eligibility under AESL's Income Support benefits. This means a family's Income Support benefits are reduced by the amount of the Surviving Child's Benefit.
- ▶ In 2017-18, 77 families on Income Support received the Surviving Child's Benefit which totaled \$168,683. This was money that government considered family income and, as a result, did not pay this equivalent amount in Income Support payments to these families to cover their basic costs of living.
- ▶ Currently, there is no provision under the Income Support program for the Surviving Child's Benefit to be exempted or held in trust.
- ▶ When entitled child beneficiaries are in care with CSSD, the funds are treated as government revenue and are not targeted to the child who is the recipient.
- ▶ In 2018, CSSD indicated receiving approximately \$12,000 in revenue under Surviving Child's Benefits.
- ▶ When the surviving child is in a kinship placement, the kinship caregiver receives this federal benefit directly. The amount is deducted from the basic kinship rate CSSD pays which translates to an equivalent savings for government.
- ▶ If a youth requiring residential services through the Youth Services Program is in receipt of the Surviving Child's Benefit, the Surviving Child's Benefit is deducted dollar for dollar from the youth's monthly allowance.

# Jurisdictional Scan

Provinces and territories vary in their policies and practices for the Surviving Child's Benefit for dependent children of Income Support recipients. Income Support policies in Nova Scotia, Prince Edward Island, New Brunswick, Quebec, Manitoba, Saskatchewan, Alberta and Nunavut count the Surviving Child's Benefit paid to minor children as family income when calculating Income Support payments. In Yukon, the Surviving Child's Benefit is considered income. However, the family can keep \$150 which is the amount a family of two or more can retain from any income source. Northwest Territories, British Columbia and Ontario exempt Surviving Child's Benefits when calculating the family's eligibility for financial assistance and support. The CPP Surviving Child's Benefit can therefore fully benefit the surviving child.

Approaches vary throughout the country with how the Surviving Child's Benefit is treated when the child beneficiary is in the care of the province or territory. British Columbia, Saskatchewan, New Brunswick, Nova Scotia, Ontario, Nunavut and Yukon hold the funds in trust or a financial guardian is assigned by court for the young person. In Quebec, the Director of Youth Protection receives the funds and they are used exclusively for the child of the deceased contributor. Practices vary across agencies and authorities in Manitoba. In Alberta, Children's Services receives the benefit. While there is no official policy for the Surviving Child's Benefit when the intended recipient is in care in Prince Edward Island or Newfoundland and Labrador, the practice has been to absorb the funding into government revenue.

## Office of the Public Trustee

The Government of Newfoundland and Labrador has an Office of the Public Trustee to protect the financial assets and well-being of its clients. Clients can include:

- ▶ Children under the age of 19
- ▶ Estate of a deceased person
- ▶ Mentally disabled persons
- ▶ Prisoners
- ▶ Missing persons
- ▶ Charitable trust

Generally, clients of the Office of the Public Trustee are determined by orders of the court on application of a family member, or by legislation. While the Public Trustee may act as guardian of the estate of a minor who is in the continuous custody of a manager under the **Children and Youth Care and Protection Act**, the Surviving Child's Benefit is not held in trust for children in care.



# Analysis/Recommendations

The Canada Pension Plan's Surviving Child's Benefit is intended to provide support to children of deceased contributors. It is part of the national social security system and safety net. With the death of a parent, all available supports for children are important. The current practice in Newfoundland and Labrador treats this benefit as government revenue, and does not recognize the child's additional needs and vulnerability with the death of a parent(s). While the dollar figures do not represent a significant form of government revenue, they would be a significant source of support for a young person if held in trust over a period of years. The Child and Youth Advocate therefore makes the following recommendations to ensure the beneficiaries of the Surviving Child's Benefit are the true beneficiaries:

## Recommendation 1:

The Department of Advanced Education, Skills and Labour eliminate its practice of recovering Surviving Child's Benefits from Income Support payments.

## Recommendation 2:

The Department of Children, Seniors and Social Development eliminate the practice of treating Surviving Child's Benefits as revenue, and also discontinue the recovery of Surviving Child's Benefits from Youth Services allowances and Kinship payments.

## Recommendation 3:

The Government of Newfoundland and Labrador enable and direct the Office of the Public Trustee to hold Surviving Child's Benefits in trust for children in receipt of designated government services.

# Conclusion

Government must do everything possible to ensure these vulnerable children receive all benefits and entitlements to help move forward in a world that has suddenly become much more challenging for them. The cycle of poverty must be avoided or broken. The current practice within the provincial government of treating these children's Surviving Child's Benefits from their deceased parent's Canada Pension Plan as revenue requires change. Collectively, we must do everything possible to ensure all children have the best possible chance to thrive, to succeed, and to live with dignity and hope. This is in their best interest and this is our collective responsibility.



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possible to ensure all  
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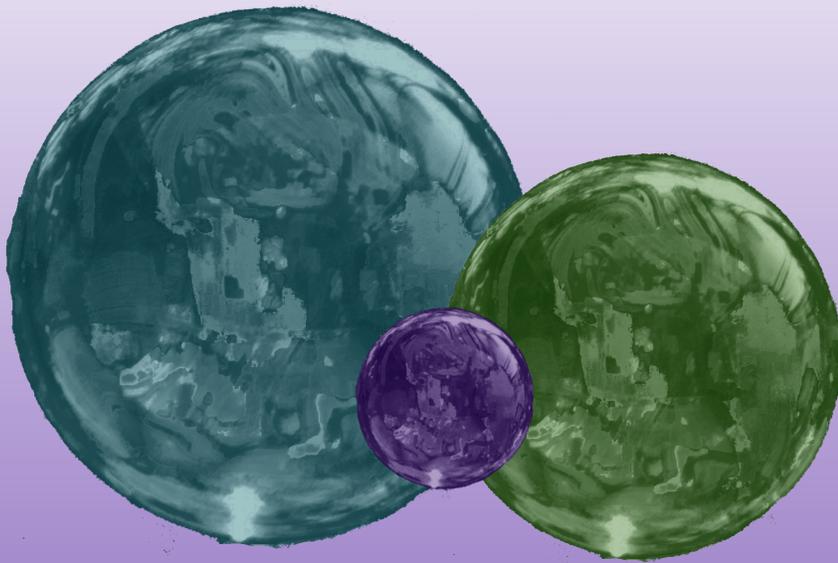
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